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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 11-00918 AHM (DTBx)	Date	September 30, 2011
Title	ANA MARIA BERNAL v. LITTON LOAN SERVICING, et al.		

Present: The Honorable	A. HOWARD MATZ, U.S. DISTRICT JUDGE
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Stephen Montes

Not Reported

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys **NOT** Present for Plaintiffs:Attorneys **NOT** Present for Defendants:

Proceedings: IN CHAMBERS (No Proceedings Held)

This case is before the Court on the unopposed Motion to Dismiss First Amended Complaint filed by Defendants Litton Loan Servicing LP (“Litton”) and HSBC Bank USA, N.A. (“HSBC”) (collectively “Defendants”). On April 28, 2011, Plaintiff Ana Maria Bernal (“Plaintiff”) filed a complaint in San Bernardino County Superior Court against Defendants Litton, HSBC, Renaissance Escrow, Inc., People’s Choice Home Loan, Inc., and New Century Title Company. On June 9, 2011, Defendants removed the action to federal court.¹ Dkt. 1.

Defendants filed a motion to dismiss Plaintiff’s claims on several grounds, including that Plaintiff fails to state a claim, certain claims are time-barred, and Plaintiff has failed to make a valid tender of the amount due under her loan. Dkt. 5. Plaintiff, who is represented by counsel, failed timely to oppose the motion to dismiss. Dkt. 8. Consequently, the Court granted the motion to dismiss with leave to amend and ordered Plaintiff’s counsel, Paul Eric St. Amant, Esq., to show cause in writing why he should not be sanctioned \$250 for failure to oppose the motion. Dkt. 9.

In response to the Court’s order, Mr. St. Amant explained that he had not opposed Defendants’ motion to dismiss because their Notice of Interested Parties did not fully

¹ Three Defendants, Renaissance Escrow, Inc., People’s Choice Home Loan, Inc., and New Century Title Company, did not join in the removal. In their Notice of Removal, the moving Defendants explained that the other Defendants did not need to join in the removal because they had never been served or were no longer in existence. Dkt. 1, p. 2-3. Plaintiff has never refuted these claims.

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disclose all interested parties, in violation of Federal Rule of Civil Procedure 7.1 and Local Rule 7.1-1. Dkt. 10. Thus, per Mr. St. Amant's reasoning, the motion to dismiss was invalid. Although the Court found this was not a legitimate reason not to oppose a motion to dismiss, the Court nonetheless declined to sanction Mr. St. Amant and discharged the order to show cause. Dkt. 12.

Thereafter, Plaintiff filed a First Amended Complaint against the same five Defendants, after which Defendants Litton and HSBC filed a second Motion to Dismiss, now pending. Dkts. 16-17. Plaintiff again failed to oppose the motion. Dkt. 22.

"The failure to file any required paper, or the failure to file it within the deadline, may be deemed consent to the granting or denial of the motion." Local Rule 7-12. In addition, the motion to dismiss the first amended complaint currently before the Court appears meritorious on its face. Accordingly, the motion to dismiss is GRANTED,² and the case is dismissed. In the absence of any request for leave to amend the complaint to allege Plaintiff's ability to tender the amount due, no further leave to amend should be granted.

No hearing is necessary. Fed. R. Civ. P. 78; L.R. 7-15.

Initials of Preparer

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² Dkt. 17.